

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DONALD BERDEAUX and CHRISTINE
GRABLIS, individually and on behalf of all
others similarly situated,

Plaintiff, :

-against- :

ONECOIN LTD; RUJA IGNATOVA;
KONSTANTIN IGNATOV; SEBASTIAN
GREENWOOD; and MARK SCOTT,

Defendants. :

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VALERIE CAPRONI, United States District Judge:

WHEREAS on July 8, 2019, Plaintiff Christine Grablis and Movant Donald Berdeaux filed a joint motion to be appointed as co-lead plaintiffs and for approval of their selection of Levi & Korsinsky LLP and Silver Miller to be co-lead counsel, *see* Dkts. 21-23;

WHEREAS on July 10, 2019, consistent with this Court's order, Movant Berdeaux submitted an affidavit certifying that he alleges approximately \$755,918.92 in losses as a result of Defendants' alleged conduct, *see* Dkt. 25, significantly greater than the approximately \$130,000 in losses Plaintiff Grablis alleges, *see* Dkt. 1 ¶ 17;

WHEREAS, because of (1) the apparent lack of a pre-litigation relationship between Plaintiff Grablis and Movant Berdeaux; (2) their relative lack of sophistication in managing PSLRA litigation compared to, for example, a pension fund or similar entity; and (3) the fact that proposed co-Lead Counsel Levi & Korsinsky, LLP did not appear in this action until July 8, 2019, the same day that Movant Berdeaux first appeared in this case, *see* Dkt. 20, suggesting that "the proposed group has been assembled as a makeshift" for "the purpose of amassing an aggregation of investors purported to have the greatest financial interest in the action," *Verghese*

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19-CV-4074 (VEC)

ORDER

v. *China Shenghuo Pharm. Holdings, Inc.*, 589 F. Supp. 2d 388, 392 (S.D.N.Y. 2008), the Court is not persuaded that Grablis and Berdeaux “will be able to function cohesively and to effectively manage the litigation apart from their lawyers” and thus that “permitting [these] unrelated investors to join together as a group . . . would best serve the [putative] class,” *id.*;

WHEREAS, having rejected aggregation, “the Court may consider” Movant Berdeaux “individually, as if he had moved to be appointed as lead plaintiff alone,” *id.* at 394;

WHEREAS Movant Berdeaux is presumptively the most adequate lead plaintiff because he (1) “has . . . made a motion in response to a notice” publicly advertising the filing of the action; (2) compared to the other contender, Plaintiff Grablis, “has the largest financial interest in the relief sought by the class”; and (3) “otherwise satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure,” *id.* § 78u-4(a)(3)(B)(iii)(I); and

WHEREAS the Court sees no circumstances rebutting that presumption,

IT IS HEREBY ORDERED that the joint motion for appointment as co-lead plaintiffs and for approval of co-lead counsel [Dkts. 21-23] is GRANTED IN PART and DENIED IN PART. Movant Berdeaux is appointed as the sole Lead Plaintiff of this action under 15 U.S.C § 78u-4(a)(3)(B)(i) and (iii).

IT IS FURTHER ORDERED that all further submissions in this case must use the amended caption featured at the top of this order.

IT IS FURTHER ORDERED that no later than **July 19, 2019**, Lead Plaintiff Berdeaux must file a motion for the approval of Lead Counsel under 15 U.S.C § 78u-4(a)(3)(B)(v). If Lead Plaintiff Berdeaux continues to prefer that both Levi & Korsinsky LLP and Silver Miller be approved as co-Lead Counsel, his motion must explain why the retention of two law firms is appropriate and necessary to adequately represent the putative class. The Court notes that it does

not, at this juncture, see any reason to doubt that either firm is qualified or generally able to conduct the litigation. Nor is the Court categorically opposed to the appointment of co-lead counsel. It is, however, keen on avoiding duplicative work in litigating this case, particularly as it bears on the approval of any class-wide settlement that provides for attorneys' fees, costs, and expenses.

The Clerk of Court is respectfully directed to (1) close the open motion at Dkt. 21; (2) designate Donald Berdeaux as "Lead Plaintiff" on the docket; (3) and permit the filing of future documents in this case under the amended caption featured at the top of this order.

SO ORDERED.

Date: July 11, 2019
New York, New York


VALERIE CAPRONI
United States District Judge